



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

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**EX PARTE PROCEDURES MODIFIED FOR FORMAL COMPLAINT FILED BY
COMSAT CORPORATION AGAINST IDB MOBILE COMMUNICATIONS, INC.
(FILE NO. E-99-08)**

On January 6, 1999, COMSAT Corporation ("COMSAT") filed a formal complaint against IDB Mobile Communications, Inc. ("IDB"), File No. E-99-08. In the complaint, COMSAT alleges, *inter alia*, that (1) IDB is violating the International Maritime Satellite Telecommunications Act of 1978, 47 U.S.C. §§ 751-757 (the "Inmarsat Act"), related Commission orders, and the Inmarsat Convention and Operating Agreement by refusing to pay COMSAT for the Inmarsat space segment owned by COMSAT; and (2) IDB is violating its FCC service authorizations by securing Inmarsat space satellite capacity for its U.S. land earth stations from a source other than COMSAT.

Pursuant to Section 1.1200(a) of the Commission's rules, 47 C.F.R. § 1.1200(a), we find, in light of three related proceedings specified hereinafter, that the public interest in expeditiously resolving issues raised in these proceedings would best be served by ensuring that *ex parte* considerations not encumber the Commission's ability to act on Section 214 applications for special temporary authority during the pendency of the formal COMSAT complaint proceeding.

We conclude that "permit-but-disclose" *ex parte* procedures will sufficiently protect the parties' interest in having the complaint adjudicated in a fair manner and that the public interest will be served by changing the "restricted" status of COMSAT's formal complaint proceeding to the "permit-but-disclose" procedures set forth in Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, which are, or have been made, applicable to the other related proceedings. Accordingly, this Public Notice establishes that COMSAT's formal complaint proceeding is a "permit-but-disclose" proceeding for purposes of the Commission's *ex parte* rules.

All parties making *ex parte* presentations in this complaint proceeding (File No. E-99-08), the IDB complaint against COMSAT proceeding (File No. E-97-48), IDB's Section 214 application proceeding (File No. ITC-97-594), or IDB's petition for declaratory ruling proceeding (File No. ISP-98-003) shall file any written *ex parte* presentations and summaries of oral *ex parte* presentations in all these proceedings, in accordance with the procedures established in Section 1.1206. Two copies of any written *ex parte* presentation made, or, if oral, an original and one copy of a memorandum that summarizes the oral *ex parte* presentation, must be submitted to the Secretary for inclusion in the public record, with copies to the

Commissioners or Commission employees involved in the oral presentation. These memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. All such filings should be clearly captioned as *ex parte* presentations, should reference the appropriate file number of each proceeding, and must be filed no later than the next business day after the presentation. All parties who made *ex parte* presentations in IDB's Section 214 application proceeding, IDB's formal complaint proceeding, or its petition for declaratory ruling proceeding prior to this Public Notice, are hereby directed to file in the COMSAT formal complaint proceeding copies of such written *ex parte* presentations and summaries of oral *ex parte* presentations within seven days of this Public Notice, in accordance with the procedures set forth in Section 1.1206.

The first related proceeding began on September 24, 1997, when IDB filed an application, File No. ITC-97-594, pursuant to Section 214 of the Communications Act (the "Act"), 47 U.S.C. § 214, seeking authority from the Commission to provide facilities-based mobile-to-fixed and fixed-to-mobile Inmarsat Standard M, mini M, and Standard B mobile satellite service ("MSS") through the Inmarsat System in the Atlantic Ocean East and West Regions and the Pacific Ocean Region. The record in this Section 214 proceeding concerns (1) the terms and conditions of IDB's contractual obligation to COMSAT to route all U.S. Inmarsat-M, -B, and mini M traffic to COMSAT's land earth stations ("LEs") through September 1, 1999; (2) COMSAT's position as a monopoly provider of ground segment services for U.S.-originated fixed-to-mobile Inmarsat M and B services; and (3) the possession by COMSAT of a legal monopoly over space segment services for U.S. originated fixed-to-mobile Inmarsat services. This Section 214 proceeding is designated permit-but-disclose for purposes of the Commission's *ex parte* rules. See 47 C.F.R. § 1.1206(a)(5); see also, *Amendment of 47 C.F.R. § 1.1200 et seq., Concerning Ex Parte Presentations in Commission Proceedings*, GC Docket No. 95-21, Report and Order, 12 FCC Rcd 7348 (1997).

The second related proceeding began on September 25, 1997, when IDB filed a formal complaint, File No. E-97-48, against COMSAT. In the complaint, IDB alleges, *inter alia*, that (1) COMSAT has violated Sections 201(b) and 202(a) of the Act, 47 U.S.C. §§ 201(b), 202(a), by charging higher prices to carriers in the United States than the prices COMSAT offers to carriers operating abroad for the same services; (2) COMSAT's rates and pricing differential are unreasonable and cannot be justified by either costs or competitive necessity; and (3) COMSAT, being the *de facto* monopoly provider of U.S.-originated fixed-to-mobile Inmarsat M and B services, unlawfully sets monopoly prices for these services. On January 30, 1998, Commission staff issued a Public Notice modifying the *ex parte* procedures applicable to IDB's complaint proceeding and IDB's Section 214 application proceeding because those two proceedings raised similar and interrelated issues. Public Notice, 13 FCC Rcd 2420 (released Jan. 30, 1998). The staff found that, as a practical matter, it would be unable to fully and expeditiously resolve the Section 214 application proceeding if the complaint proceeding continued to be conducted as a restricted proceeding. Therefore, in order to preserve the staff's ability to discuss and obtain information needed to resolve the issues in the Section 214 application proceeding during the pendency of the formal complaint proceeding, it modified the *ex parte* procedures applicable to IDB's complaint proceeding, making it a permit-but-disclose proceeding. *Id.* at 2421.

The third related proceeding began on February 23, 1998, when IDB (along with others) filed a petition for declaratory ruling asking the Commission (1) to rule whether the public interest supported "expressly permitting" U.S. carriers to bypass COMSAT for Inmarsat satellite capacity; and (2) to "confirm" that the Inmarsat Act allows U.S. carriers to bypass COMSAT and secure Inmarsat satellite capacity from foreign signatories. Stratos Mobile Networks (USA), LLC and IDB Mobile Communications, Inc.: Petition for Declaratory Ruling, File No. ISP-98-003 (filed Feb. 23, 1998). The petition for declaratory ruling is currently pending. This is a permit-but-disclose proceeding.

Questions relating to the formal complaints may be directed to Adrien Auger, Common Carrier Bureau, at (202) 418-0960. The formal complaint materials are available for inspection and copying in the Enforcement Division, Formal Complaints and Investigations Branch, Room 6120, 2025 M Street, N.W., Washington, D.C. 20554. Questions relating to IDB's Section 214 application for authority to provide mobile-to-fixed and fixed-to-mobile Inmarsat Standard M, Mini M and Standard B MSS via the Inmarsat system in the Atlantic and Pacific Ocean regions, as well as questions relating to its petition for declaratory ruling, may be directed to Joanna Lowry, International Bureau, at (202) 418-1470. IDB's Section 214 application and petition for declaratory ruling, and the comments, reply and response comments will be available for public inspection during regular business hours in the FCC's International Bureau Reference Room, Room 100, 2000 M Street, N.W., Washington, D.C. 20554. Copies can also be obtained from ITS at 1231 20th Street, N.W., Washington, D.C. 20036, or by calling (202) 857-3800.

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